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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,901	01/26/2001	Victor R. Stefanovic	199-1308	4993

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EXAMINER

GONZALEZ, JULIO C

ART UNIT PAPER NUMBER

2834

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

9/2

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/769,901	STEFANOVIĆ ET AL.	
<b>Examiner</b>		<b>Art Unit</b>	
Julio C. Gonzalez		2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 August 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 27 August 2002 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because it is written on two pages instead on only on one page. Correction is required. See MPEP § 608.01(b).

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected under the judicially created doctrine of double patenting over claims 1-20 of U. S. Patent No. 6,417,650 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: current sensors, measuring a voltage applied to an inverter, voltage sensors, calculating a flux, a flux error, comparing a voltage amount, determining a d-axis voltage and a q-axis voltage and determining a torque error and torque error amount and using a mapping function. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 11, 13, 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seibel et al (Patent # 6,014,007) in view of Heikkila.

Seibel discloses current sensors, voltage sensors (column 10, lines 30, 39, 40), a reference frame 21, flux regulator 22, voltage regulator 24, a two-phase system (see figure 3), and an inverter 14. Also, the flux is calculated and a flux error is obtained (see claim 19). Moreover, a voltage error is calculated, d-axis, q-axis voltage is produced (see abstract & column 15, line 57).

Seibel discloses inherently that the controlling method can be used for a generator since it is well known in the art that motors and generators have similar features and structures.

However, Seibel does not disclose using a torque error.

On the other hand, Heikkila discloses for the purpose of reducing torque ripple and noise, a direct torque control using a torque controller  $T_c$  (see figure 5), which is involved in the torque error (column 10, lines 40-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a controller as disclosed by Seibel et al and to modify the invention by using a torque error for the purpose of reducing torque ripple and noise as disclosed by Heikkila.

5. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seibel et al (Patent # 6,014,007) and Heikkila as applied to claims 1, 11 and 16 above, and further in view of Seibel et al (Patent # 5,717,305).

The combined control invention includes all of the elements above. However, the combined control invention does not disclose a generator shaft torque.

On the other hand, Seibel (Patent # 5,717,305) discloses for the purpose of achieving proper torque during the starting and maintaining stability for the system that the generator has a torque amount that is controlled (see abstract & claim 8)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined control invention and to use a generator torque for the purpose of achieving proper torque during the starting and maintaining stability for the system as disclosed by Seibel.

***Response to Arguments***

6. Applicant's arguments filed 08/27/02 have been fully considered but they are not persuasive.

Seibel discloses an induction machine 9 and provides a torque control for the devices (see abstract & claim 1).

7. In response to applicant's arguments, the recitation induction generator has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

November 6, 2002

*Thomas M. Dougherty*

THOMAS M. DOUGHERTY  
PRIMARY EXAMINER  
GROUP 2160

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